

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

HOLLY SHORT
1133 Meadow Lane #102
Concord, CA 94520

Case No. 2011-493

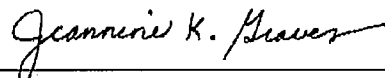
Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **April 4, 2011**.

IT IS SO ORDERED **March 4, 2011**.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUDITH J. LOACH
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
Against:

12 **HOLLY SHORT**

13 Applicant.

Case No. 2011-493

14 **STIPULATED SETTLEMENT AND**
15 **DISCIPLINARY ORDER**

16 In the interest of a prompt and speedy settlement of this matter, consistent with the public
17 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
18 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
19 which will be submitted to the Board for approval and adoption as the final disposition of the
20 Statement of Issues.

21 PARTIES

22 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Executive Officer of the Board
23 of Registered Nursing. She brought this action solely in her official capacity and is represented in
24 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Judith J.
25 Loach, Deputy Attorney General.

26 2. Applicant Holly Short ("Applicant") is representing herself in this proceeding and has
27 chosen not to exercise her right to be represented by counsel.
28

3. On or about June 24, 2010, Applicant filed an application dated May 24, 2010, with the Board of Registered Nursing to obtain a Registered Nursing License.

JURISDICTION

4. Statement of Issues No. 2011-493 was filed before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, and is currently pending against Applicant. The Statement of Issues and all other statutorily required documents were properly served on Applicant on November 30, 2010. Applicant timely contacted Deputy Attorney General Judith J. Loach and requested to settle the Statement of Issues filed on behalf of the Board. A copy of Statement of Issues No. 2011-493 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Applicant has carefully read, and understands the charges and allegations in Statement of Issues No. 2011-493. Applicant has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Applicant is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Applicant voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8: Applicant admits the truth of each and every charge and allegation in Statement of Issues No. 2011-493.

9. Applicant agrees that her Registered Nursing License is subject to denial and she agrees to be bound by the Board of Registered Nursing's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing.

Applicant understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Applicant. By signing the stipulation, Applicant understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the application of Applicant Holly Short for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to Applicant. Said license shall immediately be revoked, the order of revocation stayed and Applicant placed on probation for a period of three (3) years on the following conditions:

1 **Severability Clause.** Each condition of probation contained herein is a separate and
2 distinct condition. If any condition of this Order, or any application thereof, is declared
3 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
5 and enforceable to the fullest extent permitted by law.

6 1. **Obey All Laws.** Applicant shall obey all federal, state and local laws. A
7 full and detailed account of any and all violations of law shall be reported by Applicant to the
8 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
9 compliance with this condition, Applicant shall submit completed fingerprint forms and
10 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
11 as part of the licensure application process.

12 **Criminal Court Orders:** If Applicant is under criminal court orders, including probation
13 or parole, and the order is violated, this shall be deemed a violation of these probation conditions,
14 and may result in the filing of an accusation and/or petition to revoke probation.

15 2. **Comply with the Board's Probation Program.** Applicant shall fully
16 comply with the conditions of the Probation Program established by the Board and cooperate with
17 representatives of the Board in its monitoring and investigation of the Applicant's compliance
18 with the Board's Probation Program. Applicant shall inform the Board in writing within no more
19 than 15 days of any address change and shall at all times maintain an active, current license status
20 with the Board, including during any period of suspension.

21 Upon successful completion of probation, Applicant's license shall be fully restored.

22 3. **Report in Person.** Applicant, during the period of probation, shall appear
23 in person at interviews/meetings as directed by the Board or its designated representatives.

24 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
25 or practice as a registered nurse outside of California shall not apply toward a reduction of this
26 probation time period. Applicant's probation is tolled, if and when she resides outside of
27 California. Applicant must provide written notice to the Board within 15 days of any change of
28 residency or practice outside the state, and within 30 days prior to re-establishing residency or

1 returning to practice in this state.

2 Applicant shall provide a list of all states and territories where she has ever been licensed as
3 a registered nurse, vocational nurse, or practical nurse. Applicant shall further provide
4 information regarding the status of each license and any changes in such license status during the
5 term of probation. Applicant shall inform the Board if she applies for or obtains a new nursing
6 license during the term of probation.

7 5. **Submit Written Reports.** Applicant, during the period of probation, shall
8 submit or cause to be submitted such written reports/declarations and verification of actions under
9 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
10 relative to Applicant's compliance with all the conditions of the Board's Probation Program.

11 Applicant shall immediately execute all release of information forms as may be required by the
12 Board or its representatives.

13 Applicant shall provide a copy of this Decision to the nursing regulatory agency in every
14 state and territory in which she has a registered nurse license.

15 6. **Function as a Registered Nurse.** Applicant, during the period of
16 probation, shall engage in the practice of registered nursing in California for a minimum of 24
17 hours per week for 6 consecutive months or as determined by the Board.

18 For purposes of compliance with the section, "engage in the practice of registered nursing"
19 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
20 non-direct patient care position that requires licensure as a registered nurse.

21 The Board may require that advanced practice nurses engage in advanced practice nursing
22 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

23 If Applicant has not complied with this condition during the probationary term, and
24 Applicant has presented sufficient documentation of her good faith efforts to comply with this
25 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
26 extension of Applicant's probation period up to one year without further hearing in order to
27 comply with this condition. During the one year extension, all original conditions of probation
28 shall apply.

1 7. **Employment Approval and Reporting Requirements.** Applicant shall
2 obtain prior approval from the Board before commencing or continuing any employment, paid or
3 voluntary, as a registered nurse. Applicant shall cause to be submitted to the Board all
4 performance evaluations and other employment related reports as a registered nurse upon request
5 of the Board.

6 Applicant shall provide a copy of this Decision to her employer and immediate supervisors
7 prior to commencement of any nursing or other health care related employment.

8 In addition to the above, Applicant shall notify the Board in writing within seventy-two
9 (72) hours after she obtains any nursing or other health care related employment. Applicant shall
10 notify the Board in writing within seventy-two (72) hours after she is terminated or separated,
11 regardless of cause, from any nursing, or other health care related employment with a full
12 explanation of the circumstances surrounding the termination or separation.

13 8. **Supervision.** Applicant shall obtain prior approval from the Board
14 regarding Applicant's level of supervision and/or collaboration before commencing or continuing
15 any employment as a registered nurse, or education and training that includes patient care.

16 Applicant shall practice only under the direct supervision of a registered nurse in good
17 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
18 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
19 approved.

20 Applicant's level of supervision and/or collaboration may include, but is not limited to the
21 following:

22 (a) Maximum - The individual providing supervision and/or collaboration is present in
23 the patient care area or in any other work setting at all times.

24 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
25 care unit or in any other work setting at least half the hours Applicant works.

26 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
27 person communication with Applicant at least twice during each shift worked.

28 (d) Home Health Care - If Applicant is approved to work in the home health care setting,

1 the individual providing supervision and/or collaboration shall have person-to-person
2 communication with Applicant as required by the Board each work day. Applicant shall
3 maintain telephone or other telecommunication contact with the individual providing supervision
4 and/or collaboration as required by the Board during each work day. The individual providing
5 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
6 patients' homes visited by Applicant with or without Applicant present.

7 9. **Employment Limitations.** Applicant shall not work for a nurse's
8 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
9 traveling nurse, or for an in-house nursing pool.

10 Applicant shall not work for a licensed home health agency as a visiting nurse unless the
11 registered nursing supervision and other protections for home visits have been approved by the
12 Board. Applicant shall not work in any other registered nursing occupation where home visits
13 are required.

14 Applicant shall not work in any health care setting as a supervisor of registered nurses.
15 The Board may additionally restrict Applicant from supervising licensed vocational nurses
16 and/or unlicensed assistive personnel on a case-by-case basis.

17 Applicant shall not work as a faculty member in an approved school of nursing or as an
18 instructor in a Board approved continuing education program.

19 Applicant shall work only on a regularly assigned, identified and predetermined
20 worksite(s) and shall not work in a float capacity.

21 If Applicant is working or intends to work in excess of 40 hours per week, the Board may
22 request documentation to determine whether there should be restrictions on the hours of work.

23 10. **Complete a Nursing Course(s).** Applicant, at her own expense, shall
24 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
25 than six months prior to the end of her probationary term.

26 Applicant shall obtain prior approval from the Board before enrolling in the course(s).
27 Applicant shall submit to the Board the original transcripts or certificates of completion for the
28 above required course(s). The Board shall return the original documents to Applicant after

1 photocopying them for its records.

2 11. **Violation of Probation.** If Applicant violates the conditions of her
3 probation, the Board after giving Applicant notice and an opportunity to be heard, may set aside
4 the stay order and impose the stayed discipline (revocation/suspension) of Applicant's license.

5 If during the period of probation, an accusation or petition to revoke probation has been
6 filed against Applicant's license or the Attorney General's Office has been requested to prepare
7 an accusation or petition to revoke probation against Applicant's license, the probationary period
8 shall automatically be extended and shall not expire until the accusation or petition has been acted
9 upon by the Board.

10 12. **License Surrender.** During Applicant's term of probation, if she ceases
11 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
12 probation, Applicant may surrender her license to the Board. The Board reserves the right to
13 evaluate Applicant's request and to exercise its discretion whether to grant the request, or to take
14 any other action deemed appropriate and reasonable under the circumstances, without further
15 hearing. Upon formal acceptance of the tendered license and wall certificate, Applicant will no
16 longer be subject to the conditions of probation.

17 Surrender of Applicant's license shall be considered a disciplinary action and shall become
18 a part of Applicant's license history with the Board. A registered nurse whose license has been
19 surrendered may petition the Board for reinstatement no sooner than the following minimum
20 periods from the effective date of the disciplinary decision:

21 (1) Two years for reinstatement of a license that was surrendered for any reason other
22 than a mental or physical illness; or

23 (2) One year for a license surrendered for a mental or physical illness.

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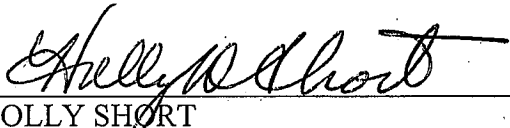
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1 ACCEPTANCE

2 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
3 stipulation and the effect it will have on my Registered Nursing License. I enter into this
4 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
5 to be bound by the Decision and Order of the Board of Registered Nursing.

6
7 DATED:

12/9/10


HOLLY SHORT
Applicant

8
9
10 ENDORSEMENT

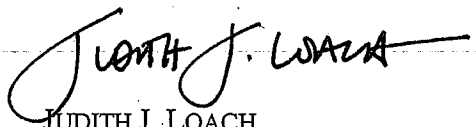
11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
12 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
13 Affairs.

14
15 Dated:

12/14/2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General


JUDITH J. LOACH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 2011-493

1 EDMUND G. BROWN JR.
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2 FRANK H. PACOE
Supervising Deputy Attorney General
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Deputy Attorney General
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7 *Attorneys for Complainant*

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STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

13 **HOLLY SHORT**

14 **1133 Meadow Lane, # 102**
Concord, CA 94520

15 Applicant.

Case No. 2011-493

STATEMENT OF ISSUES

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
20 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about June 24, 2010, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for a Registered Nurse License from Holly Short
24 ("Applicant"). On or about May 24, 2010, Applicant certified under penalty of perjury to the
25 truthfulness of all statements, answers, and representations in the application. The Board denied
26 the application on September 30, 2010.

27 ///

28 ///

JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

...

5. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

"(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

"(B) The board may deny a license pursuant to this subdivision only if the crime or act is

1 substantially related to the qualifications, functions, or duties of the business or profession for
2 which application is made.”

3
4 FIRST CAUSE FOR DENIAL OF APPLICATION

5 (Criminal Convictions)

6 6. Applicant's registered nursing license application is subject to denial under Code
7 section 2761, subdivisions (a) and (f) and Code section 480, subdivisions (a)(1) and (3)(A) based
8 on the following:

9 a. On or about February 11, 2004, in a criminal proceeding entitled *The State of Nevada*
10 *v. Holly Dell Scheneck*, Second Judicial District Court of the State of Nevada, County of Washoe,
11 Case Number CR03-2773, Applicant was convicted by her plea of guilty to a violation of NRS
12 205.060(1) [burglary], a felony. The circumstances giving rise to this plea are as follows: On
13 December 23, 2003, Applicant entered into Copeland Sports in Washoe County and attempted to
14 remove merchandise without paying. Applicant was sentenced to two (2) years of imprisonment
15 in the Nevada Department of Corrections and was paroled after twelve (12) months. She was also
16 ordered to pay fines and to reimburse the County of Washoe for legal representation.

17 b. On or about February 22, 2005, in a criminal proceeding entitled *The People of the*
18 *State of California v. Holly Short*, San Diego County Superior Court, Case No. SCN 160224,
19 Applicant was convicted of a violation of Penal Code section 459 [burglary], a felony. Applicant
20 was sentenced to three (3) years probation, committed to the county jail for two hundred and forty
21 (240) days with credit for time served of two hundred and eighteen (218) days. Applicant was
22 also ordered to pay fines in the amount of \$1245.00.

23 SECOND CAUSE FOR DENIAL OF APPLICATION

24 (Acts involving dishonesty, fraud and/or deceit)

25 7. Applicant's registered nursing license application is subject to denial under Code
26 section 2761, subdivision (a) and Code section 480, subdivisions (2), (3)(A) and (3)(B), for
27 dishonest, fraudulent and/or deceitful conduct, which would alternatively be grounds for
28 discipline if the Applicant was licensed as a registered nurse. The circumstances are as follows:

1 a. Applicant admitted on her application for a registered nurse license that on or about
2 August 4, 1987, she was convicted of violating Penal Code section 484 [petty theft], a
3 misdemeanor, in a criminal proceeding entitled *The People of the State of California v. Holly*
4 *Short*, San Diego County Superior Court, Case No. H 40379. In her license application,
5 Applicant admitted that the basis for this conviction was that she had entered a store and
6 attempted to steal clothing. She was placed on three (3) years probation and sentenced to
7 ten (10) days service on a community work project.

8 b. Applicant admitted on her application for a registered nurse license that on or about
9 May 6, 1994, she was convicted of violating NCIC 2602 [issuance of a bad check], a felony, in a
10 criminal proceeding entitled *The People of the State of Utah v. Holly Short*, Third Judicial District
11 Court of the State of Utah, Salt Lake City. In her license application, Applicant admitted that the
12 basis for this conviction was that she had written several checks without sufficient funds.
13 Applicant was sentenced to five (5) years probation, ninety (90) days in the county jail, and
14 ordered to pay fines and restitution in amounts as directed by the court.

15 c. Applicant admitted on her application for a registered nurse license that on or about
16 on or about June 8, 1998, she was convicted of violating Penal Code section 459 [burglary], a
17 misdemeanor, in a criminal proceeding entitled *The People of the State of California v. Holly*
18 *Short*, Contra Costa County Superior Court. In her license application, Applicant admitted that
19 the basis for the conviction was related to her attempt to remove clothing from a retail store
20 without payment. Applicant was sentenced to three (3) years probation and twenty (20) days in
21 county jail, for which she performed community service.

22 d. Applicant admitted on her application for a registered nurse license that on or about
23 on or about December 3, 1999, she was convicted of violating Penal Code section 488 [petty
24 theft], a misdemeanor, in a criminal proceeding entitled *The People of the State of California v.*
25 *Holly Short*, Contra Costa County Superior Court. In her license application, Applicant admitted
26 that the basis for the conviction was related to groceries removed from a market without payment.
27 Applicant was sentenced to two (2) years probation, twenty-five (25) days in county jail, and
28 ordered to pay fines as directed by the court.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Holly Short for a Registered Nurse License.
2. Taking such other and further action as deemed necessary and proper.

DATED:

NOVEMBER 24, 2010

Louise R. Bailey
LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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